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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/569,008

02/21/2006

Abraham Varon

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EXAMINER

NWUGO, OJIAKO K

ART UNIT

PAPER NUMBER

2612

MAIL DATE

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/569,008

Applicant(s)

VARON, ABRAHAM

Examiner

Ojiako Nwugo

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02/21/2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 11-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 14-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 21 February 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claim 1-4, 7,8,10, and 14-19** are rejected under 35 U.S.C. 102(b) as being anticipated by Douglas B. Quine US Patent Application 2003/0099157. (Hereafter referred to as Quine)

Regarding **Claim 1** Quine discloses in fig 1 and paragraph 31 a product expiration display with a clock 3 for counting down to the expiration date. The expiration date being dynamically adjusted in response to product environmental conditions. This reads on " A warning device for attachment to packaging of a product which has an expiration date, the device comprising: timer means for counting passage of a pre-set period of time, according to a timing program tailored to the product, to the expiration date, and for providing a signal at the expiration date"

In paragraph 29 Quine discloses an LCD display 1 which upon approach to expiration date displays a 'USE NOW' and displays 'UNFIT' upon reaching expiration date. This reads on "an indicator arranged to receive said signal and to provide an indication to differentiate a pre-expiration date period from a post-expiration date period".

Quine discloses in paragraphs 27 in view of paragraph 33 a sensor 10 which may be a conductive wire broken when the package is opened. Depending on sensor detection, it may trigger the adjustment of the expiration date to a new expiration date

be displayed on display unit 1. The act of displaying a new expiration date is activation on the LCD display 1. This reads on "a switch coupled to the packaging and arranged to activate said indicator when a person attempts to use the product".

Regarding **Claim 2** Quine discloses in paragraph 31 in view 22, a clock 3 used to countdown to expiration date preset in controller 2 at packaging. This reads on "timer means includes timer means for counting a factory pre-set period of time from a manufacturing date until the expiration date".

Regarding **Claim 3** Quine discloses in paragraph 33 that the sensor 10 senses when the package is opened and adjust expiration date accordingly. The as disclosed in paragraph 31 clock 3 acting as timer counts down to new expiration date. This reads on "timer means includes timer means for counting a pre-set period of time from a date of first use until the expiration date"

Regarding **Claim 4** Quine discloses in figure 2 and paragraph 29 and 30 that triggering events detected by the sensor 10 lead to the modification of expiration. In paragraph 34 sensor 10 includes a conductive wire is broken when the package is opened. This reads on "a trigger to cause said timer means to start a countdown from a date of first opening the product".

Regarding **Claim 7** Quine discloses in paragraph 29 a 'USE NOW' and 'UNFIT' signal that appears in pre and post expiration period respectively. This reads on "one kind of indication signal is provided during said pre-expiration date period, and another kind of signal is provided during said post-expiration date period".

Regarding **Claim 8** Quine disclose in paragraph 24 that LCD display 1 and controller 2 with clock (timer) 3 are made from calculator technologies and digital displays. This reads on "timer means and said indicator are electronic means".

Regarding **Claim 10**, Quine discloses in figure 1 and paragraph 19 an LCD display 1 with expiration date 4. This reads on "indicator provides a visual indication".

Regarding **claim 14**, Quine discloses in a paragraph 25, circuits deposited on substrates with the container as substrate thus Printed circuit boards. Disclosed in paragraphs 8 and 33 is are Fuzzy logic, linear logic, lookup tables, or preprogrammed proportional relationships are used to modulate the speed of Clock 3. This reads on "a printed circuit board (PCB) with a chip-on-board having a dedicated timing program for providing signals in accordance with the timing program".

Quine discloses in paragraph 29 that controller 2 is preprogrammed to render product unusable that is designate it 'unfit' upon attaining expiration date. Expiration dates are necessarily referenced against date of manufacture. This reads on "an in-factory activated trigger for activating a timing countdown from date of manufacture"

Quine discloses in paragraph 33 a sensor 10 in the form of a conductive wire which is broken when package is opened. The breaking of the conductive wire acts as a switch that causes controller 2 to change the expiration date on the LCD display 1 as disclosed in paragraph 19. Further more Quine discloses a battery that is part of the indicator structure. This reads on "an automatically activated switch for activating said indicator whenever the product is used; and an internal power source for powering the device".

Regarding **claim 15**, Quine discloses in a paragraph 25, circuits deposited on substrates with the container as substrate thus Printed circuit boards. Disclosed in paragraphs 8 and 33 is are Fuzzy logic, linear logic, lookup tables, or preprogrammed proportional relationships are used to modulate the speed of Clock 3. This reads on "a printed circuit board (PCB) with a chip-on-board having a dedicated timing program for providing signals in accordance with the timing program".

Quine discloses in paragraph 29 that controller 2 is preprogrammed to render product unusable that is designate it 'unfit' upon attaining expiration date. Expiration dates are necessarily referenced against date of manufacture. This reads on "an in-factory activated trigger for activating a timing countdown from date of manufacture"

Quine discloses in paragraph 33 a sensor 10 in the form of a conductive wire which is broken when package is opened. The breaking of the conductive wire acts as a switch that causes controller 2 to change the expiration date on the LCD display 1 as disclosed in paragraph 19. Further more Quine discloses a battery that is part of the indicator structure. This reads on "an automatically activated switch for activating said indicator whenever the product is used; and an internal power source for powering the device".

Regarding **Claim 16**, Quine disclose in paragraph 25 the circuitry for indicating expiration date incorporated into the container. Figure 1 and paragraph 31 discloses controller 2 with clock 3 that counts down from expiration date. In paragraph 8 Quine further discloses that controller 2 set with Fuzzy logic, linear logic, lookup tables, or preprogrammed proportional relationships, which are used to modulate the clock speed

based on deviation of the environmental conditions from preferred values for a given product as shown in figure 3. This reads on " method for providing a warning for a product which has an expiration date, the method comprising: coupling to the product packaging timer means for counting passage of a pre-set period of time, according to a timing program tailored to the product, to the expiration date".

In paragraph 29 Quine discloses that LCD displays 1 indicates 'USE NOW' or 'UNFIT' depending on whether the product is in pre or post expiration respectively. This reads on "an indicator for providing an indication to differentiate a pre- expiration date period from a post-expiration date period"

Also in figure1 and paragraph 31, the clock 3 counts down to expiration date 4. Controller 2, which controls and modifies the expiration date 4 (par. 19), causes the display of factory preset expiration date (par. 21). Further in paragraph 30 discloses the triggering condition causing the activation of Clock 3 to countdown to an expiration date. This reads on "triggering said timer means to automatically begin counting passage of said pre-set period of time".

In figure 2, Quine discloses a flow chart. At step 50 when a triggering occurs within current expiration date, expiration date is adjusted to a new one in step 80 and displayed on the LCD display 1. Quine further discloses in figure 3 one of the triggering conditions which is an open package. This reads on "automatically activating said indicator each time the product is used to differentiate pre- expiration from post-expiration.

Regarding **claim 17**, Quine in paragraph 21, Controller 2 is preset when the product is packaged to cause the display of a predetermined expiration date 4. This reads on “pre-set period of time is a factory defined product expiration time from manufacturing date”.

Regarding **Claim 18**, Quine disclose in paragraph 34, sensor 10 is a spring-biased contact is positioned within, or contiguous with, the frozen material. When the material melts, the contact is allowed to move. The controller 2 detects the change in the state of the contact and takes appropriate action, such as shifting the adjustment of the expiration date. This reads on “pre-set period of time is a product expiration time from a first opening of the product packaging”.

Regarding **Claim 19**, Quine discloses in figure 2 and paragraph 27 that Controller 2 displays factory preset expiration date and adjusts expiration date upon sensing a triggering condition that includes opening the package as disclosed in figure 3. The clock 3 then counts down from this expiration date as disclosed in paragraph 31. This reads on “pre-set period of time is a factory defined product expiration time from manufacturing date, or a product expiration time from a first opening of the product packaging, whatever happens first”.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and



the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claim 5,6 and 9** are rejected under 35 U.S.C. 103(a) as being unpatentable over Quine Regarding **claim 5** Quine discloses in paragraph 29 a 'USE NOW' and 'UNFIT' signal that appears in pre and post expiration period respectively. Quine does disclose a signal in pre- expiration period.

It would have been obvious for one of ordinary skill at the time of the invention to choose a post- expiration signal against a pre-expiration signal as a matter design choice

Regarding **claim 6** Quine discloses in paragraph 29 a 'USE NOW' and 'UNFIT' signal that appears in pre and post expiration period respectively. Quine does disclose a signal in post- expiration period.

It would have been obvious for one of ordinary skill at the time of the invention to choose a pre- expiration signal against a post-expiration signal as a matter design choice

**Claim 9** rejected under 35 U.S.C. 103 (a) as being unpatentable over Quine in view of Alan W. Rothschild US patents 5802015. (Hereafter referred to as Rothschild)

Regarding **Claim 9**, Quine discloses all the limitations of **claim 9** as applied to **claim 1** except an audible indicator. Rothschild discloses in col.9 lines 45-49 the use of audible signals as indicator. This reads on "indicator provides an audible indication".

It would have been obvious for one ordinary skill at the time of the invention to include an audible indicator to aid the sight impaired.

**Claim 20, 21 and 22** are rejected under 35 U.S.C. 103(a) as being unpatentable over Quine in view of Norton K. Boldt. (Hereafter referred to as Boldt).

Regarding **Claim 20** Quine discloses all the limitation as applied to **claim 16** except a signal start of usage and stops when usage stops. Boldt discloses in col.2 lines 61-69 the generation of sound when container is first opened. This reads on "indicator provides a special signal at a time of a first opening, which acts as tamper evidence".

It would have been obvious for ordinary skill at the time of invention to incorporate signal indicating start and stop of usage of Boldt into Quine to indicate first use as taught by Boldt.

Regarding **Claim 21** Quine discloses all the limitation as applied to **claim 16** except a signal start of usage and stops when usage stops. Boldt discloses in col.2 lines 61-69 the generation of sound when container is opened and inhibition of sound generation closure. This reads on "indicator provides a signal which starts automatically when said product is used, and stops automatically when said product is put away".

It would have been obvious for ordinary skill at the time of invention to incorporate signal indicating start and stop of usage of Boldt into Quine to indicate first use as taught by Boldt.

Regarding **Claim 22** Quine discloses all the limitation as applied to **claim 16** except a signal start of usage and stops when usage stops. Boldt discloses in col.2 lines 61-69 the generation of sound when container is opened. The pre-set signal time is the life of the power source.

It would have been obvious for ordinary skill at the time of invention to incorporate signal indicating start and stop of usage of Boldt into Quine to indicate first use as taught by Boldt.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ojiako Nwugo whose telephone number is (571) 272 9755. The examiner can normally be reached on M - F 7.30am - 5.00pm EST, Alternate Fridays Off.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Hofsass can be reached on (571) 272 2981. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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